



ELDH European Association of Lawyers for Democracy & World Human Rights

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt
EJDH Asociación Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo
EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme
EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo

WITH LAWYERS
IN 21 COUNTRIES

Equality Privacy Social Rights
No Racism Peace No Torture No War
Self-Determination of Peoples Civil Rights Democracy
Human Rights Rights of Migrants

London/Düsseldorf, 11 September 2020

European lawyers protest against US sanctions on the International Criminal Court

On 2 September 2020, U.S. Secretary of State Michael Pompeo announced the imposition of sanctions, namely inclusion in the Specially Designated Nationals And Blocked Persons List (SDN), on International Criminal Court (ICC) Prosecutor Fatou Bensouda and the Court's prosecution jurisdiction director Phakiso Mochochoko, for investigating allegations that U.S. troops committed war crimes in Afghanistan. The designation freezes any assets they might have in the U.S. or subject to U.S. law. These sanctions were based on a declaration by President Trump of a national emergency on this subject in June of 2020.

The European Association of Lawyers for Democracy and Human Rights (ELDH) condemns as outrageous these sanctions on senior prosecution officials of the International Criminal Court. ELDH will be investigating the best ways to challenge these sanctions.

The United States has for some time claimed that it is exempt from laws which bind the rest of the world, seeking permanent international impunity for itself. The United States openly seeks to evade international accountability for its responsibility for war crimes and crimes against humanity in Afghanistan, Iraq and elsewhere in the world, not only by refusing to become a party to the Rome Statute of the Court, which has been ratified by 123 states, but by U.S. President Trump declaring that the potential for an ICC investigation into international crimes in the war in Afghanistan is a "national emergency."

To declare that investigation of the USA by the ICC prosecutors is a "national emergency" makes a mockery of the word "emergency".

Of course, such an investigation follows the United States' illegal invasion and military occupation of Iraq after years of devastating sanctions, torture of prisoners, and devastation of the country that led directly and indirectly to the deaths of millions of Iraqis. The United States continues to illegally occupy Afghanistan, having killed and wounded thousands of Afghans over nearly 20 years of ongoing military attacks, while continuing drone strikes, extrajudicial killings and other war crimes and crimes against humanity around the world.

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It must further be noted that these sanctions also come in response to the Prosecutor's approval of an "investigation into war crimes which have been or are being committed in the West Bank, including East Jerusalem, and the Gaza Strip". The United States and Israel have exerted tremendous pressure on both Palestinian and international actors in an effort to uphold permanent impunity for ongoing Israeli war crimes and crimes against humanity. It also follows the submission of a complaint to the ICC by Middlesex University law professor William Schabas against Trump, Israeli Prime Minister Benjamin Netanyahu and Trump adviser Jared Kushner for their support of illegal Israeli colonial settlement activities in the West Bank of occupied Palestine.

The ICC was created to bring the world's worst war criminals to justice, and to put an end to impunity when domestic law does not or cannot provide a remedy. For years, most ICC prosecutions were directed at African defendants. The new sanctions are an attempt to prevent the ICC from performing a truly international or universal role, since any such court or judicial project must be able to hold the United States and its allies accountable for their crimes.

Sixty-seven member countries of the ICC have issued a joint statement expressing their support for the Court as an independent and impartial judicial institution, and 10 members of the UN Security Council have done the sameⁱ. The International Commission of Jurists (ICJ) has stated that "retaliating against individual ICC staff for merely working to fulfill the mandate of the Court sets a dangerous precedent and must be condemned specifically in the strongest possible terms." It is incumbent upon all States Parties to the Rome Statute to defend the Court and to address these latest threats to the international rule of law by the United States. We further call on the UN General Assembly to condemn these United States actions.

It must be noted as well that these sanctions come amid the ongoing use of unilateral coercive measures, in violation of international law and the United Nations charter, by the U.S. government; for example, against Cuba, Venezuela, Iran, Syria and Zimbabwe. These unilateral coercive measures are a form of economic warfare and an attempt to impose regime change upon any country that rejects the dictates of the United States, and the sanctions on individual ICC prosecutors fit precisely into this framework.

- The ELDH condemns this attempt by the United States to suppress international justice and any form of accountability for United States and Israeli officials simply for pursuing justice.
- We affirm that this announcement will not chill our efforts to hold United States officials and their allies, including Israeli officials, accountable and to support our members and colleagues working to do so in a variety of forums and venues, especially the ICC.
- The ELDH calls on the European Union to defend the ICC and its institutions against illegal US sanctions, on the basis of its previous official declarations, and its cooperation agreement with the ICC. The ELDH expects that the declaration by High Representative/Vice-President of the European Commission Josep Borrell of 3rd September 2020 "The European Union is unwavering in its support for the universality of the Rome Statute and for the ICC. We will resolutely defend it from any attempts aimed at obstructing the course of justice and undermining the international system of criminal justice."ⁱⁱⁱ must be accompanied by corresponding actions by the EU and by its member states .
- The ELDH calls on the member states of the EU and all other signatory states of the Rome Statute to fulfil their Treaty obligations and to defend the independence and integrity of the Court.

ⁱ <https://www.jurist.org/news/2020/06/icc-member-countries-issue-joint-response-to-us-sanctions/>

ⁱⁱⁱ https://eeas.europa.eu/headquarters/headquarters-homepage/84721/international-criminal-court-statement-high-representativevice-president-josep-borrell-us_en